

IN RE: PETITION FOR VARIANCE  
E/S Harford Road, N/S of  
Parktowne Road  
(8311 Harford Road)  
14th Election District  
6th Councilmanic District  
Parkville Enterprises, Inc.  
Petitioners

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 93-369-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Parkville Enterprises, Inc., by Edward W. Kraus, President, and the Contract Lessee, CR Restaurants, Inc., by Thomas Herman, President, through their attorney, Mary Pat Baxter, Esquire. The Petitioners request relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations to permit 42 off-street parking spaces in lieu of the required 53 spaces, in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Thomas Herman, President of CR Restaurants, Inc., who was represented by Mary Pat Baxter. Also appearing on behalf of the Petition were Joseph and Catherine Warfield with C.L. Warfield & Associates, Inc. There were no Protestants.

Testimony indicated that the subject property, known as 8311 Harford Road, consists of a gross area of 0.864 acres, more or less, zoned BL-CR-2, and is the site of an abandoned building which was formerly a Hardees Restaurant. The Petitioners are desirous of renovating the property for use as a Burger King Restaurant. Testimony revealed that the existing structure was built in 1972 and that at that time, the advent of drive-through ordering did not exist. The Petitioners wish to install a drive-through lane for the convenience of its customers; however, in order

to accomplish this, the Petitioners must eliminate some of the parking spaces that currently exist on the site. Thus, the requested variance is necessary in order to proceed with the proposed improvements to the site.

The Office of Planning and Zoning submitted comments dated May 5, 1993 in which they cite four issues of concern relating to the proposed development. Three of the issues raised in their comments concern landscaping of the subject property. Inasmuch as the Petitioners must submit a landscape plan for review and approval by Avery Harden, the Landscape Architect for Baltimore County, those issues raised by the Planning Office must be addressed on the plan prior to approval of same by Mr. Harden. The remaining issue concerns the noise level of the drive-through speakers to be installed due to the close proximity of the subject property to the residential dwelling at 3000 Parktowne Road. As a condition of the relief being granted, the Petitioners shall be required to comply with appropriate State and Local ordinances regarding noise to insure there is no disturbance to the adjoining residential property owner.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

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Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 21<sup>st</sup> day of June, 1993 that the Petition for Variance requesting relief from Section 409.6.A.2 of the Baltimore County Zoning Regulations to permit 42 off-street parking spaces in lieu of the required 53 spaces, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such

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time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) Prior to the issuance of any occupancy permits, the Petitioners shall submit a landscape plan for review and approval by Avery Harden, the Landscape Architect for Baltimore County. Said plan shall consider and address those issues raised by the Office of Planning in their comments dated May 5, 1993.

3) The Petitioners shall be required to comply with appropriate State and Local ordinances regarding noise levels to insure there is no disturbance to any adjoining residential property owner as a result of the installation of drive-through lane speakers.

4) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

TMK:bjs

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

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Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

Suite 113 Courthouse  
400 Washington Avenue  
Towson, MD 21204

(410) 887-4386

June 21, 1993

Mary Pat Baxter, Esquire  
17 West Pennsylvania Avenue  
Towson, Maryland 21204

RE: PETITION FOR VARIANCE  
E/S Harford Road, N/S Parktowne Road  
(8311 Harford Road)  
14th Election District - 6th Councilmanic District  
Parkville Enterprises, Inc. - Petitioners  
Case No. 93-369-A

Dear Ms. Baxter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Joseph & Catherine Warfield  
17 Jonathans Court, Cockeysville, Md. 21030

People's Counsel  
File

## Petition for Variance

93-369-A  
to the Zoning Commissioner of Baltimore County

for the property located at 8311 Harford Road  
which is presently zoned BL-CR-2

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.6 A.2. to permit 42 off-street parking spaces in lieu of the required 53 spaces.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty) The prospective lessee for this vacant restaurant building requires a drive-through facility and a playroom addition (50 SF) to make reopening of the restaurant economically viable. Necessary site modifications will reduce the number of parking spaces below that required. Without the requested relief, the lessee can not proceed with the rehabilitation and reopening of the business at this site.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

CR RESTAURANTS INC.  
TOM HERMAN, PRES.

*Tom Herman*  
17 West Pennsylvania Ave.  
Towson, Maryland 21204

Towson, Maryland 21204

Mary Pat Baxter  
17 West Pennsylvania Ave.  
Towson, Md. 21204 Tel: 296-4800

*Mary Pat Baxter*  
17 West Pennsylvania Ave.  
Towson, Md. 21204 Tel: 296-4800

17 Jonathans Court  
Cockeysville, Md. 21030

Legal Owner: Parkville Enterprises Inc.  
Edward W. Kraus, Pres.

*Edward W. Kraus*  
3923 Klausmeir Road 256-1567  
Baltimore, Maryland 21236

Catherine L. Warfield  
C.L. Warfield & Assoc. Inc.

17 Jonathans Court 628-6405  
Cockeysville, Md. 21030

17 Jonathans Court 628-6405  
Cockeysville, Md. 21030

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Cockeysville, Md. 21030

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Cockeysville, Md. 21030

17 Jonathans Court 628-6405  
Cockeysville, Md. 21030

17 Jonathans Court 628-6405  
Cockeysville, Md. 21030

C.L. WARFIELD AND ASSOCIATES, INC.  
17 JONATHANS CT., COCKEYSVILLE, MD 21030  
410-628-6405

#### ZONING DESCRIPTION

Beginning at a point on the north side of Parktowne Road which is 50 feet wide at the distance of 249 feet east of the centerline of Harford Road which is 60 feet wide. Thence the following courses and distances:

N 44-35-15 E 120.91'  
N 45-24-45 W 241.72'  
S 33-59-15 W 123.01'  
S 45-24-45 E 219.06'

Being all that lot of ground acquired by Parkville Enterprises Inc. by deed dated Dec. 15, 1988 as recorded in Book 9433 Folio 731. Also known as 8311 Harford Road and located in the 14th Election District.



#### CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 14th Date of Posting: 3/1/93  
Posted for: Lawrence  
Petitioner: Parkville Enterprises, Inc. & C.L. Warfield & Assoc. Inc.  
Location of property: (311) 17 Harford Rd. & N/S Parktowne Rd.  
Location of Sign: Being, roadway on property, to be removed  
Remarks:  
Posted by: William Date of return: 7/1/93  
Number of Signs: 1

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., 5/16/93

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/16/93

THE JEFFERSONIAN,

*S. Zabe Orlov*  
Publisher

**Baltimore County Government**  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21204

**receipt**  
93-369-A  
Account: 8-011-4180  
1764 Number: 376

Date: 4/2/93  
PARKVILLE ENTERPRISES, INC.  
3723 KLAUSMEIER RD.  
BALTO., MD. 21236

020 - VARIANCE - - - 250.00  
080 - POSTING - - - 35.00  
TOTAL \$285.00

01A01N0025M1CHRC \$285.00  
BA C002:377PND4-20-93  
Please Make Checks Payable To: Baltimore County

Cashier Validation

**Baltimore County Government**  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

**93-369-A**

**ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS AND PROCEDURES**

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

**PAYMENT WILL BE MADE AS FOLLOWS:**

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

For newspaper advertising:  
Case No.: \_\_\_\_\_ Item No.: 376  
Petitioner: CR Restaurants Inc.  
LOCATION: #8311 Harford Road  
PLEASE FORWARD ADVERTISING BILL TO:  
NAME: Mr Tom Herman c/o CR Restaurants Inc.  
ADDRESS: 17 West Pennsylvania  
Towson, Md. 21204  
PHONE NUMBER: 410-296-4800

AJ:gsa  
(Revised 3/29/93)

4/10/93  
1764 # 376

**Baltimore County Government**  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

APRIL 30, 1993

**NOTICE OF HEARING**

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-369-A (Item 376)  
8311 Harford Road  
1/8 Harford Road and W/S Parktowne Road  
14th Election District - 6th Councilmatic  
Legal Owner(s): Parkville Enterprises, Inc.  
Lessee: CR Restaurants, Inc.  
HEARING: THURSDAY, JUNE 1, 1993 at 10:00 a.m. in Rm. 118, Old Courthouse.

Variance to permit 42 off-street parking spaces in lieu of the required 53 spaces.

Arnold Jablon  
Director

CR Restaurants, Inc.  
C. L. Marfield & Assoc., Inc.  
CR Restaurants, Inc.  
Mary Pat Baxter, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE OF THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

**Baltimore County Government**  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204 (410) 887-3353

May 24, 1993

Mary Pat Baxter, Esquire  
17 West Pennsylvania Avenue  
Towson, MD 21204

RE: Case No. 93-369-A, Item No. 376  
Petitioner: Parkville Enterprises, Inc., et al  
Petition for Variance

Dear Ms. Baxter:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on April 20, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

**BALTIMORE COUNTY, MARYLAND**  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: May 7, 1993  
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Senior Engineer  
Development Plan Review

RE: Zoning Advisory Committee Meeting  
for May 10, 1993  
Item No. 376

The Development Plan Review Section has reviewed the subject zoning item. The entrance on Parktowne Road should be widened to 24 feet.

This site is subject to previously-made landscape comments.

RWB:DAK:s

**Maryland Department of Transportation**  
State Highway Administration

O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

5-8-93

Re: Baltimore County  
Item No.: 376 (LED)

Ms. Helene Kehring  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,  
for Bob Small  
John Contestabile, Chief  
Engineering Access Permits  
Division

My telephone number is \_\_\_\_\_

Toll-free for Inquiries or Speech  
303-7866 Baltimore Metro - 800-640-1111 D.C. Metro - 1-800-485-3882 Statewide Toll Free  
707 North Calvert St., Baltimore, Maryland 21202-0717

**BALTIMORE COUNTY, MARYLAND**  
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration &  
Development Management

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

DATE: May 5, 1993

SUBJECT: 8311 Harford Road

**INFORMATION:**

Item Number: 376  
Petitioner: Parkville Enterprises, Inc.  
Property Size: \_\_\_\_\_  
Zoning: B.L.-C.S. - 2  
Requested Action: \_\_\_\_\_  
Hearing Date: 1/1

**SUMMARY OF RECOMMENDATIONS:**

Based upon a review of the information provided, staff supports the applicant's effort to redevelop this currently vacant site. However, we recommend the following conditions should the Petition be granted:

- Due to the proximity of the dwelling at 3000 Parktowne Road, the volume of drive thru speakers should be kept at a reasonable level.
- The existing chain link fence along the northeast property line should be replaced with a solid wood fence or masonry wall.
- Consideration should be given to moving the dumpster to another location due to its proximity to the existing residential dwelling.
- Streetfront landscaping along Parktowne Road should be upgraded and consideration should be given to removing the existing apple trees.

Prepared by: Jeffery W. Long  
Division Chief: \_\_\_\_\_  
PK/JL:lw

**BALTIMORE COUNTY, MARYLAND**  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: May 3, 1993  
Captain Jerry Pfeifer  
Fire Department

FROM: \_\_\_\_\_

SUBJECT: Comments for 05/10/93 Meeting

Item 374	Townhouses for which the initial building permit is applied for after 07/01/92 shall be sprinklered.
Item 375	No Comments
Item 376	No Comments
Item 377	No Comments
Item 378	No Comments
Item 379	No Comments
Item 380	No Comments
Item 381	No Comments
Item 382	No Comments
Item 383	No Comments
Item 384	No Comments
Item 385	No Comments

RECEIVED  
MAY 4 1993  
ZADM



C. L. WARFIELD AND ASSOCIATES, INC.  
17 JONATHANS CT. COCKEYSVILLE, MD 21030  
410-658-6885

June 2, 1993

Mr. Timothy Kotroco  
Deputy Zoning Commissioner  
Courthouse  
Towson, Maryland 21204

Re: Case Number 93-369-A (Item 376)  
8311 Harford Road  
CR Restaurants (Lessee)

Dear Sir:

In accordance with your direction given at the conclusion of the hearing for the referenced case, enclosed is a copy of the red-lined site plan showing the adjustments proposed for satisfaction of the Zoning Advisory comments from the Development Plan Review Section calling for a 24ft. wide entrance on Parktowne Road.

As briefly explained at the hearing, when this proposal was processed for a Limited Exemption, the traffic technician in the Development Plan Review Section had agreed to a reduction in the width of the existing entrance so as to avoid a one-space parking variance requirement. Subsequent site and building changes by the lessee made a parking variance necessary. The traffic technician preferred a wider entrance and since a parking variance was now required the decision was that we should either add one more space to the variance request or find another parking space on the site.

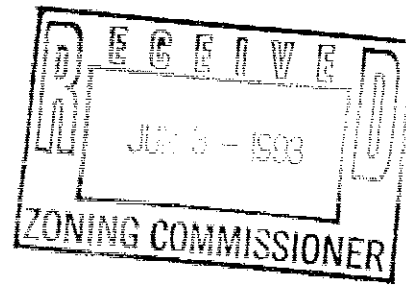
The enclosed plan has been revised to reflect maintaining the existing 30ft. entrance on Parktowne Road and an additional parking space is provided in the front of the building so that the variance request remains as petitioned. The traffic technician has concurred with a space in that location.

If there are any outstanding questions please contact this office.

Sincerely,

*Catherine L. Warfield*  
Catherine L. Warfield P.E.

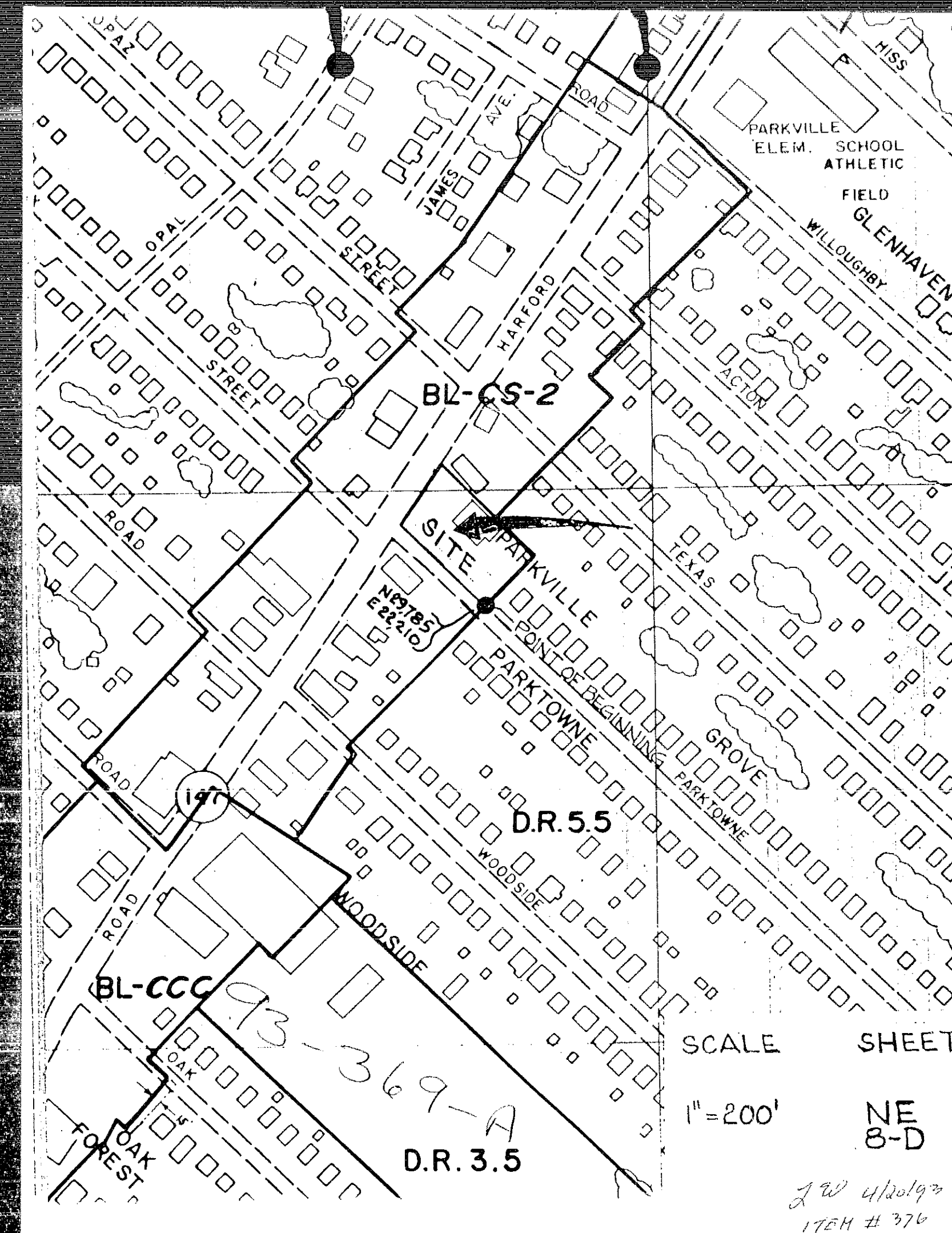
cc: CR Restaurants Inc.



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Mary Patricia Barker	17 W. Pa. Ave. Suite 500 Towson 21204
Thomas K. Herman	17 W. Pa. Ave. Suite 500 Towson 21204
Charles W. Warfield	17 Jonathan's Ct. Cockeysville, MD 21030
JOSEPH A. WARFIELD	17 JONATHANS CT. COCKEYSVILLE MD 21030



8311 HARFORD ROAD  
PHOTOS

PETITIONER'S  
EXHIBIT 2

